

Federal Maritime Commission

§ 502.201

§ 502.185 Service of memoranda upon and by interveners.

Service of all memoranda shall be made upon any interveners. Intervenors shall file and serve memoranda in conformity with the provisions relating to the parties on whose behalf they intervene. [Rule 185.]

§ 502.186 Contents of memoranda.

The memorandum should contain concise arguments and fact, the same as would be offered if a formal hearing were held and briefs filed. If reparation is sought, paid freight bills should accompany complainant's original memorandum. [Rule 186.]

§ 502.187 Procedure after filing of memoranda.

An initial, recommended, or tentative decision will be served upon the parties in the same manner as is provided under § 502.225. Thereafter, the procedure will be the same as that in respect to proceedings after formal hearing. [Rule 187.]

Subpart L—Depositions, Written Interrogatories, and Discovery

§ 502.201 General provisions governing discovery.

(a) *Applicability.* The procedures described in this subpart are available in all adjudicatory proceedings under the Shipping Act of 1984. Unless otherwise ordered by the presiding officer, the copy requirements of § 502.118(b)(3)(i) shall be observed.

(b) *Schedule of use—(1) Complaint proceedings.* Any party desiring to use the procedures provided in this subpart shall commence doing so at the time it files its initial pleading, e.g., complaint, answer or petition for leave to intervene. Discovery matters accompanying complaints shall be filed with the Secretary of the Commission for service pursuant to § 502.113.

(2) *Commission instituted proceedings.* All parties desiring to use the procedures provided in this subpart shall commence to do so within 30 days of the service of the Commission's order initiating the proceeding.

(3) *Commencement of discovery.* The requirement to commence discovery

under paragraphs (b)(1) and (b)(2) of this section shall be deemed satisfied when a party serves any discovery request under this subpart upon a party or person from whom a response is deemed necessary by the party commencing discovery. A schedule for further discovery pursuant to this subpart shall be established at the conference of the parties pursuant to paragraph (d) of this section.

(c) *Completion of discovery.* Discovery shall be completed within 120 days of the service of the complaint or the Commission's order initiating the proceeding.

(d) *Duty of the parties to meet or confer.* In all proceedings in which the procedures of this subpart are used, it shall be the duty of the parties to meet or confer within fifteen (15) days after service of the answer to a complaint or after service of the discovery requests in a Commission-instituted proceeding in order to: establish a schedule for the completion of discovery within the 120-day period prescribed in paragraph (c) of this section; resolve to the fullest extent possible disputes relating to discovery matters; and expedite, limit, or eliminate discovery by use of admissions, stipulations and other techniques. The schedule shall be submitted to the presiding officer not later than five (5) days after the conference. Nothing in this rule should be construed to preclude the parties from meeting or conferring at an earlier date.

(e) *Submission of status reports and requests to alter schedule.* The parties shall submit a status report concerning their progress under the discovery schedule established pursuant to paragraph (d) of this section not later than thirty (30) days after submission of such schedule to the presiding officer and at 30-day intervals thereafter, concluding on the final day of the discovery schedule, unless the presiding officer otherwise directs. Requests to alter such schedule beyond the 120-day period shall set forth clearly and in detail the reasons why the schedule cannot be met. Such requests may be submitted with the status reports unless an event occurs which makes adherence to the schedule appear to be impossible, in which case the requests